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COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 57th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 April 1996, at 9 p.m.

Chairman:	Mr. LEGAULT (Vice-Chairman)	(Canada)
later:	Mr. MBA ALLO (Vice-Chairman)	(Gabon)

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In the absence of Mr. Vergne Saboia (Brazil), Mr. Legault (Canada), Vice-Chairman, took the Chair.

The meeting was called to order at 9 p.m.

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1996/50 and Add.1, 103, 105 and 112)

1. Mr. TEITELBAUM (American Association of Jurists), speaking also on behalf of Centre Europe Tiers-Monde and the International League for the Rights and Liberation of Peoples, said that the thinking and practice of the United Nations and most States were at odds with the statement in the Vienna Declaration and Programme of Action that democracy, development and respect for human rights were interdependent. In a number of recent statements, the Secretary-General had called for a closer association of transnational corporations with international decision-making. But decisions on the lives and destinies of peoples were already being taken by a handful of great Powers, transnational corporations and bodies such as the Bretton Woods institutions which served their interests.

2. The financial crisis of the United Nations was being used as a political weapon to suspend the activities and curtail the budgets of the specialized agencies and organs. Non-governmental organizations (NGOs) were being marginalized, documents were not being translated and priorities were being set in the light of selective political criteria.

3. According to the report of the High Commissioner for Human Rights (E/CN.4/1996/103), the Bretton Woods institutions had become key interlocutors on the right to development. Equally astounding was the reference by the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1996/37) to his dialogue with the World Bank, whose aim was to ensure that judges defended market agents and private property against State intrusion.

4. Ms. LAROCHE (International Federation of Human Rights) said it was regrettable that the condemnation of trafficking in human beings contained in the Vienna Declaration and Programme of Action (para. 18) referred to women and girls only. The approach adopted in the Beijing Platform for Action was also inadequate. Moreover, although the issue could be addressed under three separate agenda items at the Commission's current session, none of them made explicit reference to the problem.

5. There were many contemporary forms of slavery that led to massive violations of human rights. She commended the excellent work on the subject done by the Rapporteur of the European Parliament, which had prompted the adoption of resolution A4-0326/95 by the Parliament the previous year. That resolution, which was addressed to the international community as a whole and the Commission in particular, called for the appointment of a special rapporteur on trafficking in human beings and the preparation of a new United Nations convention to replace the outdated 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

6. Her organization considered that a specific monitoring body should also be established. It further proposed that all aspects of the problem should be dealt with by the Commission under a single agenda item.

7. Ms. AULA (Pax Christi International), speaking also on behalf of the International Federation of ACAT, the International Federation of Human Rights and France Libertés: Fondation Danielle Mitterrand, said that particular concern had been expressed in the Vienna Declaration and Programme of Action about the adverse effects of impunity on human rights, both nationally and internationally. The establishment of the international criminal tribunals on the former Yugoslavia and Rwanda and the work under way on a draft statute for an international criminal court reflected the importance of the matter. Impunity rendered the work of the Commission and other human rights protection machinery pointless, inter alia where a national judicial system tolerated crimes purportedly committed at the behest of God.

8. The High Commissioner for Human Rights should give high priority to the question of impunity in his programme for the next biennium.

9. Ms. BRANTLEY (Transnational Radical Party) said that the rights of NGOs should be secured by the Commission and expanded in pursuance of the Vienna Declaration and Programme of Action. The report of the High Commissioner for Human Rights (E/CN.4/1996/103) did not give sufficient attention to cooperation with them. Their role should be explicitly recognized at the national, regional and international levels and no Government should be allowed to imprison an NGO member solely for endeavouring to defend human rights.

10. Mr. SRIVASTAVA (International Institute for Non-Aligned Studies) said that, while his organization supported the recommendations made in the report of the expert group on the development of guidelines for the integration of a gender perspective into United Nations human rights activities and programmes (E/CN.4/1996/105), it noted that they had primarily standard-setting status. The expert group had suggested that the concepts of State responsibility and accountability should be examined to determine how they could best be utilized to protect women's rights, a suggestion which was important but inadequate.

11. The Commission should recommend to the General Assembly that it examine the need for provisions under international law whereby States could be held responsible for the violation of women's rights. Theocratic States had in many cases enacted laws or given legal status to customs that were gross violations of those rights.

12. He regretted that the agenda item on conscientious objection had been withdrawn. Discussion of the issue was important in the context of States that propagated religious fundamentalism and had no tradition of democracy.

13. Although the Government of Pakistan claimed that it provided only moral, political and diplomatic support to militant movements in Jammu and Kashmir, it was common knowledge that Pakistan was directly involved in terrorist operations there. Human rights could never be enforced unless State-sponsored and State-supported terrorism was curbed.

14. Mr. LITTMANN (Christian Solidarity International) said that the practice of invoking the name of God or a religion to kill should be outlawed as a crime against humanity. The fatwa against the British writer Salman Rushdie, the murder of the Egyptian writer Faraq Fouda in 1992 following a similar fatwa and the attack on the Egyptian Nobel Prize laureate Naguib Mahfouz were examples of such sanctified crimes.

15. In 1994, a former Chief Rabbi of Israel and Chaplain-General of the Israel Defence Forces had provided a public religious justification for any Jew who murdered Yasser Arafat. That incitement had probably influenced the radical rabbis who had inspired the murderer of Prime Minister Yitzhak Rabin.

16. Similar deviations by Christians of various denominations and Hindu and Buddhist groups could also be cited.

17. Calls to kill in the name of God were a universal evil that must be unreservedly condemned by the world's spiritual and secular leaders. He urged the Commission to make a brief declaration on the issue as a follow-up to the recent statements by the High Commissioner for Human Rights.

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 19) (E/CN.4/1996/97)

18. Mr. HELGESEN (Norway), Chairman-Rapporteur of the Working Group on human rights defenders, introducing the Working Group's report on its eleventh session (E/CN.4/1996/97), said that it had regrettably been unable to adopt new provisions during the second reading of the draft declaration. The subjects with which it was struggling were legally complex and politically sensitive. The Group had discussed ways of speeding up the drafting exercise and he had been mandated to carry out certain inter-sessional activities to that end. He would do so in close cooperation with the members of the Group, bearing in mind that the real losers in the event of an unconscionable delay were those who were suffering in defence of human rights.

19. Mr. TORELLA di ROMAGNANO (Italy), speaking on behalf of the European Union, the Central and Eastern European countries associated with the Union and the associated countries of Cyprus and Malta, said that human rights activists and NGOs were of the utmost importance, because they were essential in any society which wanted effectively to implement human rights. There was ample evidence, however, that many Governments and authorities regarded them as dangerous threats rather than valuable resources and persecuted them. Passivity by the Commission might be interpreted as tacit acceptance of such practices by the international community.

20. The Working Group established 12 years earlier to draft a declaration on human rights defenders had just held a session at which nothing had been accomplished because, as usual, certain countries had blocked progress. The Union considered that the declaration's purpose was to clarify and reinforce, not limit, activities to promote human rights.

21. The Commission should, through its human rights machinery, gather specific information on the harassment of human rights defenders. The Vienna Declaration had commended their achievements, but such appreciation should take the form of ensuring that they were allowed, by peaceful means, to promote and protect human rights and fundamental freedoms throughout the world.

22. Mr. Mba Allo (Gabon), Vice-Chairman, took the Chair.

23. Ms. HERTZ (Chile) reiterated her delegation's support for the vital role of human rights defenders, its condemnation of any threats against them and its consternation that, after more than 10 years' work, the drafting of the declaration had still not been completed. Nevertheless, the underlying consensus, though regrettably hindered by a small group of delegations, should provide the impetus to pursue the efforts.

24. Failure to renew the Working Group's mandate would send out the wrong political signal at such a crucial juncture. Her Government was therefore in favour of the Chairman-Rapporteur continuing his efforts to build confidence among the participants in the Group, bring positions closer and remove obstacles to the progress of its deliberations, which should also take the views of the human rights defenders themselves into account. At the same time, the Commission and the international community in general should be kept informed by the special and thematic rapporteurs, experts and working groups about the difficult conditions in which human rights defenders operated.

25. Mr. RAVALOSON (Madagascar) said that the Commission could increase its efficiency by being more receptive to the views of civil society in general and of the NGOs in particular. Their role was growing, but they should be even more closely associated with decision-making and the implementation of the Commission's resolutions.

26. The effectiveness of their contribution would, however, depend on the protection given to human rights activists. To that end, he called on all Governments to guarantee the physical safety and freedom of action of human rights defenders such as the officials of NGOs, since it was well known that some of those who had participated in the Commission's discussions might be in mortal danger when they returned home. The international community should therefore ensure that Commission resolutions on the subject did not remain a dead letter. Consequently, his delegation hoped that significant progress on the draft declaration would be made, since what was at stake was the recognition of the legitimacy of the work of those who championed human rights.

27. Ms. DERRYCK (United States of America) said that individuals were often the prime movers of debates or action to promote human rights. Their reward might be a Nobel Prize or persecution and death. Human rights defenders could be of any age and she quoted the example of a 13-year-old Canadian who had been so incensed by reports of child labour abuses that he had founded an organization called "Free the Children". The young Canadian's accomplishment contrasted starkly with the murder of the boy whose plight had first inspired him to speak out. Indeed it was a sad fact that the most basic human right, the right to life, was often violated.

28. The massive human rights failures of the post-cold-war era called for new mechanisms, such as international war crimes tribunals, to protect life and human decency.

29. The United States had frequently been in the forefront of efforts to break new ground in defence of human rights and her country's soldiers were becoming part of the wider human rights picture in many regions of the world since, without peace-keeping forces, human rights had little chance of being respected in countries recovering from civil war.

30. Her Government strongly supported the endeavours of the individuals and groups who played an absolutely vital role in the development of human rights and civil society. It was therefore disappointed that certain countries were still blocking progress on the draft declaration. It nevertheless believed that the Working Group should continue its efforts until they bore fruit, as the ultimate goal was the observance of human rights everywhere in the world.

31. Mr. CONROY (Australia) said that his delegation supported the Working Group drafting the declaration, because human rights defenders were in the front line of the struggle to achieve the ideals of the Universal Declaration of Human Rights, although they often paid a high price for their courage.

32. It was thus deeply disappointed that the Group had been unable to adopt any new text at its eleventh session and strongly urged all States to continue working to produce a declaration that provided protection for human rights defenders, underlined the legitimacy of their work and allowed them to perform their invaluable function. It was high time that the negotiations were concluded and the declaration adopted. With that in mind, he outlined some of the elements that the declaration should contain.

33. His delegation was in favour of the recommendation that the Chairman-Rapporteur of the Working Group should continue his endeavours to prepare a consolidated and refined text and welcomed the active participation of NGOs in the Group's work. Similarly, it endorsed the suggestion that the Commission's various mechanisms should supply information on the situation of human rights defenders, who often acted as the world community's conscience. As such, they deserved the support of everyone.

34. Mr. SPLINTER (Canada) said that, in all too many countries, individuals were arbitrarily detained, tortured, made to disappear or executed for striving to promote and protect their fellow citizens' rights and freedoms. Members of NGOs faced intimidation, persecution or grievous harm for participating in the Commission's deliberations. Against that background, his delegation recalled the recommendation of the World Conference on Human Rights for the speedy completion and adoption of a draft declaration on defenders of human rights.

35. The draft declaration was not an endeavour to define new rights and freedoms: the rights and freedoms it encompassed were already well established. It was thus difficult to understand why, after 11 sessions, the Working Group had still not completed its task. He hoped that it was not because the political will was lacking in some quarters. His Government remained committed to the defence of those courageous persons who defended

and protected human rights and fundamental freedoms, and would continue to work with like-minded States and NGOs for the early adoption of a draft declaration. Meanwhile, it would be alert to the need to pursue other avenues to encourage, support and protect human rights defenders. In that regard, his delegation endorsed the proposal of the European Union and Chile that the various mechanisms of the Commission be requested to provide it with particular information on the situation of human rights defenders. He was confident that his delegation's concern for human rights defenders was shared by most other members of the Commission.

36. Mr. KÚZNIAR (Observer for Poland) said that, without human rights defenders, the Commission could not effectively discharge its obligations. NGOs had often proved effective where their governmental and intergovernmental partners had failed, especially in fields such as early warning, fact-finding, monitoring and humanitarian assistance. Their dedication and tireless efforts merited the adoption of a declaration to secure their protection.

37. No safeguards or mechanisms currently existed for the protection of human rights defenders, other than the annual report of the Secretary-General on intimidation and reprisals against persons cooperating with representatives of the human rights bodies. Any further delay in adoption of the draft declaration, imposition of conditions regarding its acceptance or dilution of its language would thus be unacceptable. A declaration should be approved by the General Assembly no later than the fiftieth anniversary of the Universal Declaration of Human Rights.

38. The Commission should also create a special mechanism for the protection of human rights defenders, perhaps along the lines of the International Labour Organization's Committee on Freedom of Association. Meanwhile, as a minimum, it should require all thematic rapporteurs and treaty bodies to report on alleged cases of intimidation or reprisals, as well as on the action taken in that regard.

39. Mr. HAUGESTAD (Observer for Norway) said that, where there were no official institutions to provide protection and assistance, victims turned to human rights defenders. The important role of committed individuals, groups and NGOs in the promotion and protection of human rights could hardly be overstated. Yet defenders of those rights often risked discrimination, harassment, ill-treatment and even death. The task of the Working Group was to extend them protection: they should have an international instrument specifically guaranteeing their right to defend human rights.

40. His delegation was pleased that the Group's Chairman-Rapporteur had been entrusted with the task of preparing a consolidated and refined text for consideration at a future session of the Group. It also endorsed the proposal that the Commission's mechanisms be requested, where relevant and within their mandates, to provide the Commission with particular information on the situation of human rights defenders.

41. Mr. CHRISTOFIDES (Observer for South Africa) said that, 12 sessions previously, the Commission had set the Working Group the modest objective of defining the existing rights and responsibilities of human rights defenders. That it had failed to do so was a sad indictment of all involved. At its most recent session, the Group had made no progress at all.

42. In South Africa, anti-apartheid activists had paid with their lives for the rights that should be enshrined in such a draft declaration. His delegation had learned with sadness of the increasing repression faced by human rights defenders - a measure of the effectiveness of their work. It was entirely unacceptable that a small group of countries should have for years blocked progress on that important question. Countries that flouted the view of the majority must not be rewarded for their intransigence.

43. Those countries were unlikely to change their position overnight. The Commission must therefore consider alternative ways of strengthening the process. A first possibility would be to appoint a special rapporteur on human rights defenders. Such a mechanism would exist in parallel with the Working Group, but would facilitate the resolution of technical questions and possibly undertake fieldwork. Secondly, the Group's Chairman-Rapporteur should continue to consult States and NGOs inter-sessionally, with a view to minimizing the differences between the parties. Thirdly, country and thematic rapporteurs might be asked to include in their reports special sections dealing with defenders. Indeed, those suggestions might be applicable to the methodology of all working groups.

44. Mr. CARRILLO SUAREZ (International Commission of Jurists), speaking also on behalf of Amnesty International, Baha'i International Community, International Federation of Human Rights and International Service for Human Rights, said that human rights defenders around the world implored the Commission and its Working Group to take steps to protect them. They were hardly able to defend others if they themselves were so vulnerable. Yet, year after year, the Working Group failed to produce a declaration; its most recent session of the Working Group had been a complete failure, because its debates were becoming more and more political and less and less technical.

45. Consequently, persons seeking peacefully to vindicate internationally recognized rights continued to be subjected to arbitrary and criminal abuse of power by State authorities. The organizations he represented thus called on the Commission not only to renew the Working Group's mandate but also to pass a resolution to address the situation of human rights defenders in one or more ways. It might establish a mechanism to monitor their situation worldwide, clearly mandated to gather information from all possible sources, to take up cases with Governments and make recommendations, and to report to the Commission. The report of such a mechanism could provide the Working Group with concrete examples of the problems the declaration must address. The resolution might also call on all existing human rights mechanisms to include a chapter on human rights defenders in their reports to the Commission, and on the Secretariat to make that information available to the Working Group in a separate document.

46. The High Commissioner for Human Rights should support the principle behind the declaration and become actively involved by using his position to urge Governments to adopt a positive attitude. He should put the question of human rights defenders on the agenda of all his meetings with Governments, and make it clear that he expected them to encourage NGOs within their jurisdiction to protect and promote human rights.

47. For their part, the organizations he represented pledged themselves to do their utmost to make the protection of human rights defenders the priority it should be for all civilized countries.

48. Mr. MEJIA (World Organization against Torture) said that the Working Group had been unable to carry out its mandate chiefly because certain States wished to use the draft declaration as an instrument to control the activities of human rights defenders. His organization had provided the Commission with a list of cases of illegal or arbitrary detention, torture, extrajudicial execution and forced disappearance recorded in 49 countries during the period 1992-1995. The Commission should exhort the Governments concerned to prevent or put an end to such abuses.

49. He commended the position on the draft declaration adopted by the European Union and the Organization for Security and Cooperation in Europe (OSCE) but was concerned at the negative attitude of certain other States. The Commission should instruct the Working Group to proceed with its work on points that had not yet been discussed or approved. It should also establish a mechanism to investigate cases of victimization of human rights defenders, make representations to the Governments concerned and report thereon to the Commission.

Statements in exercise of the right of reply

50. Mr. BAUTISTA (Philippines), responding to a statement by the representative of the Asian Women's Human Rights Council concerning the hardship allegedly suffered by the children of Philippine families which had been internally displaced by armed conflict, said that, since the restoration of democracy, his Government's policy had been one of reconciliation and negotiation with rebel groups. President Ramos had given top priority to the peace process and proclaimed an amnesty, and the Government had sought to develop a culture of peace by holding wide-ranging consultations for national consensus on issues of paramount importance. The Government had declared children "zones of peace" in order to protect them against the horrors of war and had passed the corresponding legislation.

51. Ms. WANG Zhuqian (China), responding to statements by a number of NGOs concerning the alleged ill-treatment of children in her country, said that respect for the elderly and the protection of children were traditional values in Chinese society. Her Government had always attached great importance to the rights and interests of children. It had adopted legislative and administrative measures and established bodies responsible for child welfare and a wide network of orphanages and facilities for disabled children. The United Nations State of the World's Children Report for 1996 showed that the situation of children in China was better than that in any comparable low-income country. Representatives of 10 Western countries had recently visited China, and their report differed sharply from the false allegations made in the NGO statements.

The meeting rose at 11 p.m.